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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1972

No. .....

JAMES A. POOLEY,
Petitioner,

vs.

STATE OF MISSISSIPPI,
Respondent.

PETITION FOR A WRIT OF CERTIORARI

To the Supreme Court of the State of Mississippi

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INDEX

	Page
Introductory statement	1
Jurisdictional statement	2
Question presented for review	2
Constitutional provisions involved	2
Statement of the case	3
Reasons for granting the writ	8
Argument	9
Conclusion	18
Appendix A—Opinion of the Mississippi Supreme Court	A-1
Appendix B—Judgment of the Mississippi Supreme Court	A-6
Appendix C—Order denying petition for rehearing	A-7
Appendix D—Order allowing appellant to remain at large on bond	A-8

Cases Cited

Aguilar v. Texas, 378 U.S. 108, 84 S.Ct. 1509, 12 L.ed 2d 723 (1964) 8, 10, 14

Chimel v. California, 395 U.S. 752, 89 S.Ct. 2034, 23 L.ed 2d 685 (1969) 8, 11, 12

District of Columbia v. Little, 339 U.S. 1, 70 S.Ct. 468, 94 L.ed 599 (1949) 13, 14

Draper v. United States, 358 U.S. 307, 79 S.Ct. 329, 3 L.ed 2d 327 (1959) 10, 11

Gouled v. United States, 225 U.S. 298, 41 S.Ct. 261, 65 L.ed 647 (1921) 17

Lewis v. United States, 385 U.S. 206, 87 S.Ct. 424, 17 L.ed 2d 312 (1966) 8, 15, 16, 17, 18

Mapp v. Ohio, 367 U.S. 643, 81 S.Ct. 1684, 6 L.ed 2d 1081 (1961) 9, 13

Massiah v. United States, 377 U.S. 201, 84 S.Ct. 1199, 12 L.ed 2d 246 (1964) 17

Pooley v. State, 257 So2d 212 (1972) 1, 17, 18

Spinelli v. United States, 393 U.S. 410, 89 S.Ct. 584, 21 L.ed 2d 637 (1969) 8, 14, 15

Trupiano v. United States, 334 U.S. 699, 68 S.Ct. 1229, 92 L.ed 1663 (1948) 17

Statutes Cited

28 USC 1257(3) 2

United States Constitution:

Fourth amendment 2, 12, 13, 17

Fifth amendment 2, 3, 13, 17

Fourteenth amendment 2, 3, 12

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INTRODUCTORY STATEMENT

The Petitioner, James A. Pooley, respectfully petitions for a writ of certiorari to review a judgment and order made by the Supreme Court of the State of Mississippi unofficially reported as **Pooley v. State**, 257 So2d 212 (1972) affirming a judgment against the petitioner made and entered by the Circuit Court of Forrest County, Mississippi, on January 11, 1971.

The opinion of the Mississippi Supreme Court is appended, bound with this petition, and marked Appendix A.

The decision of the Mississippi Supreme Court was handed down on January 4, 1972. The judgment is appended, bound with the petition, and marked Exhibit B.

Petition for rehearing was denied on February 7, 1972. The judgment denying the petition for rehearing is appended, bound with this petition, and marked Exhibit C.

The defendant was permitted to remain at large on bond pending a determination of this petition. An order to that effect is appended, bound with this petition, and marked Exhibit D.

JURISDICTIONAL STATEMENT

Petitioner believes this Court has jurisdiction to review the decision by Writ of Certiorari by virtue of 28 USC 1257 (3).

QUESTION PRESENTED FOR REVIEW

(1) Did the warrantless official intrusion of police officer Henry M. Bounds into the Petitioner's residence constitute a violation of Petitioner's Fourth Amendment and Fourteenth Amendment rights, and thereby render all evidence obtained as a result thereof inadmissible at Petitioner's trial?

CONSTITUTIONAL PROVISIONS INVOLVED

This case involves the Fourth and Fifth Amendments to the Constitution of the United States and Section 1 of the Fourteenth Amendment to the Constitution of the United States.

The Fourth Amendment provides:

> "The right of the people to be secure in their persons, houses, papers and effects, against unreasonable

searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

The Fifth Amendment provides:

"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any Criminal Case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation."

Section 1 of the Fourteenth Amendment provides:

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

STATEMENT OF THE CASE

At the time of the incident giving rise to the arrest and ultimate conviction of defendant for the unlawful sale of marijuana, Petitioner was a college student at the Uni-

versity of Southern Mississippi, residing off campus in his private apartment. Petitioner was acquainted with one Richard Ferguson, who in turn knew one Howard Johnson and James Mims. The record does not indicate the extent of the relationship between Mims, Johnson, Ferguson and Petitioner. An alleged law enforcement officer from Purvis, Mississippi, Mr. Ray Chastagne, who did not testify, introduced Mims and Johnson to Detective Bobby E. Roberson of the Hattiesburg, Mississippi, Police Force.

The essential facts in reference to the search and seizure here reviewed are without dispute. On the afternoon of April 15, 1970, at approximately 5:30 P.M., Mims and Johnson met with Detective Roberson at the Hattiesburg, Mississippi, Police Station. The record is unclear, but these three individuals had met some time prior to April 15, 1970. After the police station conference, an appointment was made to meet again at the Nowhere Lounge with one Richard Ferguson, where Officer Bounds was to be introduced as a truck driver using a fictitious name.

Officer Bounds and Roberson did not know the Petitioner, nor were they acquainted with him. A plan of artifice was concocted at the 5:30 conference whereby Officer Bounds was to gain entrance to the Petitioner's private residence by the use of the Petitioner's friend, Ferguson, who preceded Bounds and was allowed entrance into the sanctity of Petitioner's home between 8:30 and 9:00 P.M. of the same evening.

Finally, at approximately 9:00 P.M., the two (2) informers, the police officer, and the unsuspecting mutual friend met at Petitioner's apartment.

As to the crucial and precise method of gaining entry, the record reflects the following:

"Q. When you got to the place that you say was Pooley's place, apartment number 1, what happened first? That is, how did you get in?

A. Well, we pulled up, we pulled in behind Richard. Richard got out and came back to the car, and said, you all wait here just a minute, and he went and knocked on the door up there.

Q. This is Ferguson?

A. Yeah.

Q. Excuse me, young man. I don't know whether (I) was clear or not. Is this a ground floor apartment or an upstairs apartment?

A. Ground floor.

Q. Ground floor. All right. Go ahead.

A. Richard motioned for us to come in, to come to the door, and Pooley invited us in, and we all went in, and he introduced Pooley to Bounds.

Q. Who introduced Pooley to Bounds?

A. Ferguson.

Q. All right, now the Pooley that you mentioned, did you know him by a first name?

A. All I knew was Pooley at first. And they said he was actually, or Richard said his name was James Pooley.

Q. All right. When Ferguson introduced Bounds to Pooley, with regard now, and I want you to please refer to that which pertains to the alleged sale of marijuana, was there any conversation, preliminary conversation there when you all got in the first room or living room, or whatever it was?

BY HON. ALVIN M. BINDER:

We object, Your Honor, on the same grounds and for the same reasons given heretofore on the Motion to Suppress and ask that you let us have a continuing objection for the record.

BY THE COURT:

Yes, let the objection be continuing.

Q. Did you all have, some, I believe somebody said rap or talk when you first went in the place after you howdy dood and somebody got introduced to somebody?

A. Well, I really can't remember, you know what I mean. We all went in and just all started talking, you know.

Q. What about Bounds being a truck driver? Do you recollect anything about that?

A. Yes, sir.

Q. What was said in Pooley's presence about Bounds being a truck driver?

A. Richard told Pooley, that he's the driver—the truck driver.

A. Let's see,——

Q. Take your time, son. I know you have never testified before.

A. Let's see. We went in and Ferguson introduced Bounds, and he said he was a truck driver, and that he was the one that he had talked about, you know, pills, you know, they was wanting to trade some pills for some marijuana, so we thought that we could, you know, talk about it and tell them that we knew a man, we didn't tell them for sure now, that we knew a fellow that handled pills from Baton Rouge, you know, in other words, to get somebody on the law enforcement in there with us that would know what was going on beside just us two. In other words, we had to have some help. That was the first case, you know, that I've ever been on, you know, to help out, and——" (R. 128-R. 130).

Entrance was obtained by Officer Bounds posing as a truck driver with the assistance of Ferguson and a conversation of some length took place before the officer observed the alleged contraband. Prior to and subsequent to gaining entrance to the apartment, Officer Bounds did

not reveal his identity as a police officer. He admitted that he did not arrest the Petitioner and testified that he gave marked bills to Johnson in an attempt to effectuate purchase of a small quantity of marijuana from the Petitioner and no contraband was ever offered for sale to Officer Bounds. Officer Bounds testified that after he gained entrance to Petitioner's apartment that the Petitioner did not discuss drugs initially. Officer Bounds admitted on the evening of April 15 and prior thereto he had no reason to believe that the Petitioner was engaged in the sale of narcotics. Then he changed his testimony and stated he suspected this at 7:00 that evening but didn't know witnesses Mims and Johnson before that evening. He stated he had no reason to get a search warrant prior to obtaining entrance. Arrest was not consummated on the scene, but was, in fact, not made until one month later on May 14, 1970.

Mims was the first State witness to admit that the entrance obtained by Ferguson was part of a plan by Bounds to obtain law enforcement entrance within the Petitioner's private residence by deception and artifice on the part of Officer Bounds.

The State then developed its proof that while acting under the subterfuge heretofore indicated, Officer Bounds obtained evidence that Petitioner gave Mr. Johnson a plastic bag obstensibly containing marijuana in consideration of Seventeen and no/100 Dollars ($17.00).

Over repeated defense objections, State's Exhibit No. 1 (contraband) was introduced into evidence, upon which the conviction of this Petitioner rests.

Prior to trial Petitioner filed his Motion to Suppress Evidence and during the trial interposed a continuing objection to the introduction of the marijuana into evidence stating as grounds for the motion and objections that the introduction of the marijuana into evidence would deny

Petitioner the rights guaranteed to him by the Fourth and Fifth Amendments to the Constitution of the United States as made applicable to the states by Section 1 of the Fourteenth Amendment, thus properly and timely raising and preserving his constitutional claims.

The Petitioner was convicted and sentenced to serve a term of five years in the Mississippi State Penitentiary and to pay a fine of $1,000.00. A motion for a new trial, raising Petitioner's Federal Constitutional claims, was filed and overruled. Petitioner appealed his conviction and sentence to the Mississippi Supreme Court renewing his Federal Constitutional claims. The conviction was affirmed by the Supreme Court of Mississippi and Petitioner's Petition for Rehearing Denied. Petitioner, having exhausted his state remedies, now petitions this Court for a Writ of Certiorari to the Supreme Court of the State of Mississippi.

REASONS FOR GRANTING THE WRIT

a. The decision rendered by the Mississippi Supreme Court is in direct conflict with the decisions of this Court, particularly this Court's decisions in **Spinelli v. United States**, 393 U.S. 410, 89 S.Ct. 584, 21 L.ed 2d 637 (1969); **Chimel v. California**, 395 U.S. 752, 89 S.Ct. 2034, 23 L.ed 2d 685 (1969); **Aguilar v. Texas**, 378 U.S. 108, 84 S.Ct. 1509, 12 L.ed 2d 723 (1964); and **Lewis v. United States**, 385 U.S. 206, 87 S.Ct. 424, 17 L.ed 2d 312 (1966).

b. The Supreme Court of Mississippi decided the federal constitutional question here raised relying on its interpretation of this Court's decision in **Lewis v. United States**, 385 U.S. 206, 87 S.Ct. 424, 17 L.ed 2d 312 (1966). Petitioner raises here the issue that this Court's decision in **Lewis v. United States** is not decisive of the legal and factual circumstances and of the Federal questions in the case at bar.

ARGUMENT

Prior to the commencement of the trial, Petitioner made a proper motion to suppress the evidence obtained by Officer Bounds or any informer. The Court reserved its ruling on the motion pending the tender of proof by the State of its evidence. At the time of the State's initial tender of the evidence illegally obtained, the Petitioner made proper objection and moved that it be excluded. By the State's own admission, access was gained to the Petitioner's residence through artifice practiced by Police Officer Bounds under a fishing expedition scheme whereby a social acquaintance of Petitioner would be used as a vehicle to gain admittance by Officer Bounds falsely representing himself to be a truck driver. Notwithstanding proper motions and objections, Officer Bounds was permitted to testify as to the evidence discussed after gaining admittance in the manner indicated in the record.

Mr. Howard Johnson was next presented as a witness by the State to testify as to information obtained while within the Petitioner's residence under the misrepresentations aforesaid and was permitted to do so over proper objection and motion to suppress by the Petitioner.

Next, Mr. James Mims, the other alleged informer, was permitted to likewise testify as to occurrences within the Petitioner's domicile. Petitioner likewise preserved his objections and motions as to said testimony.

Petitioner contends that the evidence obtained and introduced by the State was a result and fruit of an illegal search and seizure. Repeatedly, the record indicates that the search was not made pursuant to any warrant or arrest of the accused, but solely on the purported consent of the accused.

Mapp v. Ohio, 367 U.S. 643, 81 S.Ct. 1684, 6 L.ed. 2d 1081 (1961), is the first case which required all states to

exclude evidence discovered during an unlawful search. The search here also was without search warrant; however, there was forcible entry.

In **Aguilar v. Texas**, 378 U.S. 108, 845 S.Ct. 1509, 12 L.ed. 2d 723 (1964), this Court held that fruits of Fourth Amendment violations should be excluded and the police officers intent is examined as to whether or not his conduct is offensive to the Constitution, and as in the case at bar as to whether or not he could have achieved his goal lawfully.

The "Probable Cause Doctrine" was established in 1959 with the advent of **Draper v. United States**, 358 U.S. 307, 79 S.Ct. 329, 3 L.ed. 2d 327 (1959) holding that where officers had probable cause to arrest without warrant, search incident to arrest was lawful. In the **Draper** case the police were informed that he was a narcotics peddler and unlike the case at bar, the authorities established that they had reason to rely on their informers. The **Draper** case held that:

> "Probable cause exists where the facts and circumstances within their (Police) knowledge and of which they had reasonably trustworthy information are sufficient in themselves to warrant a man of reasonable caution in the belief that an offense has been or is being committed."

Here officers Bounds and Roberson did not know the defendant prior to April 15, 1970, and had no previous relations whatsoever with witnesses Mims and Johnson. Roberson was introduced to Mims and Johnson prior to April 15, 1970, by a law enforcement officer of another county who never testified in the trial as to the reliability of Mims and Johnson.

The **Draper** case established that if a police officer, such as Bounds and Roberson, took the law into their own hands then they must act on some evidence known to

them for the law initally protects the citizen and mere suspicious acts, even when observed by an officer, might be as consistent with innocence as with guilt. The case holds that officers acting with "probable cause" or on "reasonable grounds" are protected. The law officers here had nothing except an accusation of mere suspicion on the part of the unknown alleged informers Mims and Johnson. Bounds didn't expect to make an arrest and in fact did not and relied on the mere words of unproved informers who had related mere suspicious possibilities. There were no facts legally sufficient to present to a magistrate for the officers could only swear to the fact that their informers Mims and Johnson had made an accusation and certainly there was no evidence as in **Draper** that lay in Bounds and Roberson's knowledge that could be disclosed to a magistrate to obtain a warrant.

The scope of the search is further important in the case at bar. Once Officer Bounds had obtained entrance to the living room of the defendant without probable cause an issue is presented as to whether or not he had a further right to gain entrance by subterfuge to the defendant's bedroom. This Court, in **Chimel v. California,** 395 U.S. 752, 89 S.Ct. 2034, 23 L.ed. 2d 685 (1969), limited the search where there was no Constitutional justification without a search warrant to extend a search beyond a Petitioner's person or the immediate surrounding area of the Petitioner. In **Chimel,** supra, as in the case at bar, the officer had sufficient time to obtain a search warrant and failed to do so. **Chimel,** supra, confines a search to the immediate vicinity of the arrest and further holds that belief even well founded that contraband is concealed in a dwelling house furnished no justification for arrest or search without warrant. Under this Court's holding in **Chimel,** supra, the State had to prove an exceptional situation with no time to obtain the warrant. In the case at bar, it is clear that the officers were on a fishing expedi-

tion—had sufficient time to get a warrant— had no reliable information and facts to depend on, but knew the address of Petitioner where he was actually found. The State failed to show any facts as to why it was impracticable for them to obtain a search warrant and the law in **Chimel** protects Petitioner once again.

Petitioner contends that the burden was upon the prosecution to establish voluntary consent to the entrance into his abode by the agencies of the State for the purpose of obtaining evidence with which to prosecute him for the illegal sale of marijuana. The Mississippi Supreme Court, relying on post entrance activities, held that Petitioner had consented to the State's unconstitutional infringement into Petitioner's home and in so doing passed on the constitutional claims Petitioner raises here.

Since entry into Petitioner's place of residence was gained through artifice, misrepresentation, and subterfuge, the evidence thereby obtained is inadmissible. The question next arises as to the extent of the applicability of our exclusionary rule precluding the introduction of evidence illegally obtained. Petitioner contends that not only was the substance alleged to be marijuana which was procured by the illegal entry inadmissible, but all other evidence, oral or documentary, should be excluded.

We thus come to the heart of the issue as to whether the right of search and seizure was available to the Hattiesburg law enforcement authorities without warrant and was the inevitable taking into custody of Petitioner's property a violation of the Fourth Amendment and Fourteenth Amendment of the United States Constitution. Search warrants were not known to common law and we first turn to the Fourth Amendment which provides:

> "The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated and no

warrant shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or things to be seized."

The fundamental law of the Fourth Amendment makes a man's home truly his castle and guaranteed a limitation of powers upon the Federal Government which only disappeared with the advent of **Mapp v. Ohio**, supra. We next are confronted with the basic law that belief, no matter how well founded by a police officer that an article sought is concealed in a residence, does not justify search without warrant. A mere suspicion without reasonable grounds for believing the suspicion to be founded in fact will not amount to probable cause. Petitioner did not voluntarily permit or expressly invite and agree to the police officer's search while being cognizant of his rights in the premises. Mere acquiescence, even in the presence of a search warrant, does not imply voluntary consent, and we do not have these facts in the case at bar. The enigma of the law is that the constitutional guarantee of protection against unreasonable searches and seizures extends to the innocent and guilty alike. The Courts have held that the reasonableness of a search without a warrant should be adjudicated solely by the extremity of the circumstances of the moment and not be any general characteristic of the officer or his mission. See **District of Columbia v. Little**, 339 U.S. 1, 70 S.Ct. 468, 94 L.ed. 599 (1949). It is well settled that the law of search and seizure under the Fourth and Fifth Amendments to the Federal Constitution reflects the dual purpose of (1) protecting the privacy of the individual (his rights to be left alone) and (2) protection of the individual against compulsory production of evidence to be used against him. The principal object of the Fourth Amendment is protection of privacy rather than property and this Court has discarded fictional and procedural barriers resting on property concepts. The protection of the Fourth

Amendment is not only limited to the tangible evidence but has extended to oral testimony. The cases all seem to agree in the modern day time since 1960 that even if the evidence and facts constitute justification of the issuance of a search warrant where there is no reason offered for not obtaining a search warrant except inconvenience to officers or slight delay and where there was no suspect fleeing or likely to take flight and where there was no evidence, factual or otherwise, that contraband in fact would be found on the premises and there was an accomplished search of private premises then such evidence should be inadmissible. In the **Little** case, supra, the Court went further and held that except in most urgent of necessities, all questions of the reasonableness of the search is for the Magistrate and not for law enforcement officers. Obtaining entrance through the use of the Petitioner's friend, Ferguson, and by the use of subterfuge makes the private individual nonetheless an arm of law enforcement. Ferguson, Mims and Johnson procured the entry surely as an agent of a police officer employing trickery and the exclusionary rule concerning the evidence and testimony obtained is applicable. When Mims and Johnson did what the officers asked them to do, this type conduct is specifically not consonant with the purpose for which the Petitioner had given them authority to enter and any conclusions that they did not act as an arm of the police is simply unrealistic.

The **Spinelli** and **Aguilar** cases cited above make it mandatory that the State show how the informer learned that Pooley was suspect, or evidence and facts should be brought from the witness stand in favor of the State to show how the informer established to the satisfaction of the police that Pooley took an apartment for illegal purposes. The facts show that the informers and Police Officer Bounds followed Ferguson in a second car to the defendant's house. In the absence of a statement dealing with the manner in which the information was obtained,

it was mandatory for the prosecution to establish that the tip described the accused's criminal activity in such sufficient detail that a Magistrate might know that he was relying on some substantial accusation based on reliable facts. In short, even if Petitioner had a former criminal record this would be of no consequence and is not a factor that could be considered in a decision as to whether probable cause existed. Also in **Spinelli**, we point out that even though the FBI agent observed Spinelli on ten saparate occasions and a supposedly reliable informant gave a tip to the FBI that Spinelli was operating as a bookmaker, this Court held the affidavit bad.

The reasonableness of the search of Officer Bounds where we have a warantless search is measured from the standpoint of the searcher's conduct. If Officer Bounds' conduct is in some way reprehensible or if he participated in the search and was motivated by a desire to "hunt" for incriminating evidence and he did so without any plausible explanation or justification, then such an invasion is unreasonable. Petitioner here submits the police officers violated Pooley's constitutional rights under the Fourth and Fourteenth Amendments to the Constitution of the United States which guarantees that citizens shall be secure from unreasonable searches and seizures.

In ruling on Petitioner's contention that Officer Bounds violated Petitioner's rights under the United States Constitution when he intruded into Appellant's apartment without a search warrant based upon probable cause the Supreme Court of Mississippi relying on **Lewis v. United States**, 385 U.S. 206, 87 S. Ct. 424, 17 L.ed 2d 321 (1966), per Justice R. P. Sugg held:

> "Under the particular circumstances of this case, we hold that the evidence of sale is admissible and although the undercover agent did not appear at the apartment of appellant in response to a specific invitation, his willingness to sell marijuana to strangers

> after admitting them voluntarily to his apartment constituted a waiver of official intrusion upon the privacy of his apartment."

Petitioner submits that the holding in **Lewis**, supra, is not controlling here. In **Lewis**, a federal narcotics agent, on two separate invitations from Lewis to come to Lewis' home for the specific purpose of purchasing marijuana, entered Lewis' home and purchased marijuana. This Court there rejected the Petitioner's contention:

> ". . . that, in the absence of a warrant, any official intrusion upon the privacy of a home constitutes a Fourth Amendment violation and the fact the suspect invited the intrusion cannot be held a waiver when the invitation was induced by fraud and deception." 385 U.S. at 208.

holding that:

> ". . . when, as here, the home is converted into a commercial center to which outsiders are invited for the purpose of transacting unlawful business, that business is entitled to no greater sanctity than if it were carried on in a store, a garage, a car, or in the street. A government agent, in the same manner as a private person, may accept an invitation to do business and may enter upon the premises for the very purposes contemplated by the occupant." 385 U.S. at 211.

The record in the case at bar establishes (1) that Officer Bounds did not have prior factual and reliable information that Petitioner possessed or would sell drugs; (2) that Officer Bounds did not receive an invitation to Appellant's apartment for the purpose of purchasing contraband; and (3) that Officer Bounds did not gain entrance to and intrude upon the privacy of Petitioner's home at a time when both he and Petitioner agreed that the purpose of the meeting was the purchase and sale of contraband. The uncontradicted facts revealed in the

record preclude the application of the ruling in **Lewis**, supra, to the case under review.

Here, Officer Bounds' official intrusion by deceit and artifice into Petitioner's home constitutes a violation of Petitioner's rights under the Constitution of the United States. **Massiah v. United States**, 377 U.S. 201, 84 S.Ct. 1199, 12 L.ed 2d 246 (1964), **Trupiano v. United States**, 334 U.S. 699, 68 S.Ct. 1229, 92 L.ed 1663 (1948) and **Gouled v. United States**, 225 U.S. 298, 41 S.Ct. 261, 65 L.ed 647 (1921).

Petitioner does not quarrel with the **Lewis** holding, but merely asserts that this holding does not extend in any manner to the factual situation at bar. The Fourth and Fifth Amendments create those protective rights which are not pierced in the **Pooley** case by this Court's holding in **Lewis**. Should the ruling in the **Pooley** case stand affirmed, the law surrounding search warrants would be negated and we would enter an era of complete "warrantless" searches and seizures.

In **Lewis**, government agents knew that the defendant was a seller of drugs and the agent had a specific invitation to come to the defendant's residence for the purpose of sale. The invitation for a proposed sale in itself was an expressed intention to commit a felony.

Here, no crime had yet been committed prior to entrance and Officer Bounds did not possess information of illegal conduct on the part of Pooley. Further, there was no solicitation either by the Officer or by Pooley that would encourage such a confrontation to effect the sale of contraband. Petitioner maintains that if an agent of the government can obtain entrance by stealth or artifice for a mere "fishing expedition" without any more factual or reliable information than Bounds or his superiors had in the case at bar, everyone would be subject to search and seizure by any governmental agency under the guise of the deliverers of laundry or groceries, etc. In **Lewis**, the agent had rea-

son to believe that the petitioner possessed narcotics when the petitioner, prior to entrance, offered same for sale to the agent. The Supreme Court of Mississippi placed his home in the arena of a public business house by his willingness to sell contraband. We are then confronted with the issue as to whether this Court in **Lewis** intended to infer that under the facts in the **Pooley** case the constitutional rights of Pooley were waived by his conduct? Pursuant to the holding in **Pooley**, the State could by artifice and stratagem, without prior notice from any reliable source, enter any person's home and failing resistance or objection by virtue of the artifice the entrance will be called "invitation" with all evidence obtained by the "fishing expedition" submitted at trial as admissible by waiver. Petitioner does not believe that this Court intends to do away with search warrants and approve warrantless searches except in those areas heretofore delineated by this Court and Petitioner therefore respectfully petitions this Court for a Writ of Certiorari to the Supreme Court of Mississippi to review that Court's decision in **Pooley v. State.**

CONCLUSION

Petitioner respectfully submits that a review of the record would indicate that this petition for a writ of certiorari should be granted, and that the judgment of the Mississippi Supreme Court affirming the judgment of the Circuit Court of Forrest County, Mississippi, should be set aside, and the judgment of conviction reversed.

Respectfully submitted

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